Draft Regulations laid before the Scottish Parliament under section 35(3)(a) of the Children (Care and Justice) (Scotland) Act 2024 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2027 No.

CHILDREN AND YOUNG PERSONS

CUSTODY AND WELFARE

The Criminal Justice and Public Order Act 1994 (Modification) (Scotland) Regulations 2027

Made - - - -	*2027*
Coming into force - -	*2027*

The Scottish Ministers make the following Regulations in exercise of the power conferred by section 35(1) of the Children (Care and Justice) (Scotland) Act 2024(**a**) and all other powers enabling them to do so.

In accordance with section 35(3)(a) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1.—(1) These Regulations may be cited as the Criminal Justice and Public Order Act 1994 (Modification) (Scotland) Regulations 2027.

(2) These Regulations come into force on the day after the day on which they are made.

Modification of the Criminal Justice and Public Order Act 1994

2.—(1) The Criminal Justice and Public Order Act 1994(**b**) is modified as follows.

(2) After section 102(3) (arrangements for the provision of prisoner escorts)(**c**) insert—

"(3A) In relation to the custody of a person within Scotland, the word "prison" in subsection (2)(d) is to be read as though it were immediately followed by the words "or (as the case may be) a place where the Scottish Ministers have directed that a person be detained under section 205(2) or 208(1) of the Criminal Procedure (Scotland) Act 1995.".

(**a**) 2024 asp 5. The regulation-making power conferred by section 35(1) of the Children (Care and Justice) (Scotland) Act 2024 includes the power to modify any enactment by virtue of section 35(2).

(**b**) 1994 c. 33.

(**c**) Section 102(3) was amended by paragraph 93(3)(a) of schedule 4 of the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40) and S.S.I. 2005/465.

Name
Authorised to sign by the Scottish Ministers

St Andrew's House
Edinburgh
Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

By virtue of section 102(1) of the Criminal Justice and Public Order Act 1994 ("the 1994 Act"), as read with section 53 of the Scotland Act 1998 (c. 46), the Scottish Ministers may make arrangements for any of the functions specified in section 102(2) of the 1994 Act to be performed, in such cases as may be determined by or under the arrangements, by prisoner custody officers who are authorised to perform such functions.

These Regulations insert a new section 102(3A) into the 1994 Act, modifying the application of section 102(2)(d) of that Act in relation to the custody of a person within Scotland. Its effect is to empower the Scottish Ministers to authorise a prisoner custody officer to have custody of a person within Scotland who is, for temporary purposes, outside a place where they have been directed to be detained under section 205(2) or 208(1) of the Criminal Procedure (Scotland) Act 1995 ("the 1995 Act"). Following the commencement of section 208A(2) of the 1995 Act (as inserted by section 19(6) of the Children (Care and Justice) (Scotland) Act 2024), that place cannot be a prison or young offenders institution.

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